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ABSTRACT

This annual report details the responsibilities of the Office of Civil Rights (OCR). It outlines the main purpose of the OCR--the agency within the United States Department of Education that regulates and enforces civil-rights laws against discrimination in education programs and activities receiving federal financial assistance. The focus of the agency is to provide student applicants and students equal access to programs and services. The OCR provides overall leadership, support, and coordination of the 12 enforcement offices throughout the country. The department conducts complaint investigations, compliance reviews, and technical assistance. By resolving complaints fairly, by reviewing the policies and practices of education institutions, and by helping education institutions comply with federal civil-rights requirements, the department works for equal access to education. The OCR measures its work by looking at complaint resolution and compliance. Details on the OCR's budget history and the national impact of the department are provided. Examples of how the OCR serves students, such as addressing discrimination on the basis of disability, identifying gifted minority students, and addressing discrimination on the basis of sex, are described. A list of OCR publications is given. (RJM)

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ED 428 436

Office for Civil Rights
Fiscal Year 1998
Annual Report to Congress

Guaranteeing Equal Access to High-Standards Education

U.S. Department of Education
Office for Civil Rights

EA029694

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MISSION:

To ensure equal access to education
for all students through the
vigorous enforcement of civil rights.

THOSE WE SERVE:

We serve students facing discrimination.

MESSAGE FROM THE ASSISTANT SECRETARY

In fiscal year 1998, the Office for Civil Rights continued its civil rights enforcement program in a collaborative style. Our even-handed approach is people-intensive. For example, we build relationships with school districts, colleges and community groups to resolve cases amicably, and to ensure that remedies are fully implemented. These efforts require a highly trained staff who are both dedicated and motivated.

At the beginning of the civil rights movement of the 1960s and during the early days of this agency, we focused on school districts and colleges that were operating flagrantly discriminatory education systems. Contemporary equity issues are more complex and subtle. In addition to these complicated issues, we also must harmonize enforcement with high standards in education. We must guarantee equal access not only to basic, high-quality education, but also to programs for gifted and talented students. We seek both parity and excellence: for without both, there can be no true equity.

Our job is far from over. For example, too few black men are entering and graduating from college. The needs of many English-learning students are not being met. Women athletes are not receiving an equitable share of scholarships. The high-school dropout rate for Latino students is higher than it ever has been. Disabled students are too often denied the most basic services they need to learn. In short, our workload is as heavy as ever.

In fiscal year 1998, our work positively changed the lives of a greater number of students than we ever have done before. Our continued goal is to serve more children and adult learners through our partnerships with educators, and parent and community groups.

We ask you to join us in the commitment to guarantee equal access to high-standards education.

Respectfully submitted,

Norma V. Cantú

Norma V. Cantú

TABLE OF CONTENTS

	Page
MESSAGE FROM THE ASSISTANT SECRETARY	ii
GUARANTEEING EQUAL ACCESS TO HIGH-STANDARDS EDUCATION	1
RESPONSIBILITIES OF THE OFFICE FOR CIVIL RIGHTS	3
HOW THE OCR DOES ITS WORK	5
The OCR Investigates Complaints	5
The OCR Conducts Compliance Reviews	6
The OCR Gives Technical Assistance	7
HOW THE OCR MEASURES ITS WORK	9
A RIGHT-SIZED OCR	10
Appropriation and Workload, FY 1990 - 1998	10
THE OCR'S NATIONAL IMPACT	12
Complaint Receipts By Basis, FY 1998	12
Complaint Receipts and Resolutions, FY 1990 - 1998	13
HOW THE OCR SERVES STUDENTS AND THEIR SCHOOLS	14
On the Basis Of Disability	14
On the Basis Of Race, Color and National Origin	17
On the Basis Of Sex	20
INTO THE NEXT CENTURY	24
APPENDICES:	
OCR Publications	25
OCR Offices	27

GUARANTEEING EQUAL ACCESS TO HIGH-STANDARDS EDUCATION

The greatest social legacy of the twentieth century is the movement toward equal rights for all Americans. Within this civil rights challenge, a paramount issue has always been one of educational access: how can we, as a nation, achieve equal access to high-quality education for all people, no matter what their race, color, national origin, sex, disability or age?

Through federal and state action, the work of education, community and religious groups, and the singular effort of those strong individuals who would not give up the struggle for equality, tremendous strides have been made in the last half of this century. The actions of a wide range of people helped thousands of young people to reach their potential. As we move toward the next millenium, we remain concerned about the civil rights based on a person's race, color, national origin, sex, disability or age.

No American child deserves to get a second-class education.

President William J. Clinton

The civil rights issues in education appeared clear-cut at one time in the recent past: some children were served by well-maintained school buildings with state-of-the-art science labs, while others were assigned to dilapidated schoolhouses that served up decades-old secondhand textbooks. The pipeline to a first-rate education was wide open for many children but virtually closed to others. Although many of these gross inequities have been eradicated, other disparities remain – some easily visible; many more, less so. These more complex issues – such as how schools should give all children equal access to the most challenging coursework possible – are those that the Office for Civil Rights (OCR) currently is working to address.

The civil rights issues relevant to American students and their classrooms are dynamic and ever-changing, and so those of us with federal responsibility for correcting education inequities still have work to do. Who, at the beginning of the struggle for civil rights, would have foreseen that by the end of the century the majority of student and parent civil rights complaints would focus on student disabilities? Who would have anticipated that large numbers of racial minority students would be placed inappropriately in special education classes or denied fair access to gifted and talented programs? Or that there would be the need for federal guidance to be issued on sexual harassment in the classroom? Or that there would be a great number of children – born in more than 150 foreign countries – entering American schools as English-language learners? These are some of the current issues with which the OCR grapples every day, and they are the topics that require a specialized federal work force: statisticians, linguists and psychometricians as well as investigators and attorneys.

As we move into the twenty-first century, our national concern remains centered on quality of education: how well are our students performing? All our students ultimately must be equipped to fulfill the new technological needs of the nation's manufacturing and service industries, as well as to fulfill their own potential in those and other areas of endeavor. After all, our country's standing rests on

issues too crucial and too extensive to be served by only a small proportion of the population. In order to maintain our national place in the competitive global marketplace, every American must have equal access to the highest-quality education possible.

The most important thing we can do to strengthen our country for the twenty-first century is to give our people the best education system in the world.

President William J. Clinton

The OCR will play a critical role in helping the nation reach its competitive goal by guaranteeing equal access to high-standards in education. All students must be prepared to meet the new challenges of the next century. There should be no discriminatory barriers that stand in their way; the pipeline to high-quality schooling must be wide enough for everyone's passage. The OCR is dedicated to breaking down any civil rights obstructions that block or narrow the path to national educational excellence. At the same time, the agency will work with school and college officials, community groups, and students and parents, to build and reinforce those systems and methods that support full access to high-standards education. The OCR's work will assist every student – regardless of race, sex or disability – to achieve the best work possible in the nation's schools and colleges.

RESPONSIBILITIES OF THE OFFICE FOR CIVIL RIGHTS

The OCR is the agency within the United States Department of Education (ED) that regulates and enforces civil rights laws against discrimination in programs and activities receiving federal financial assistance. In limited cases, the OCR carries out this role for the 18 other federal agencies that have delegated their civil rights compliance activities to the agency. The OCR's authority is derived from the Department of Education Organization Act, 20 U.S.C. 3401, *et seq.*

The ideals behind this and other civil rights legislation are ones we all should strive for – building a society that celebrates the differences and abilities of all of its citizens.

Secretary of Education
Richard W. Riley

The OCR enforces five laws that prohibit discrimination on the bases of race, color, national origin, sex, disability and age. They are:

- Title VI of the Civil Rights Act of 1964 (Title VI), which prohibits race, color and national origin discrimination;
- Title IX of the Education Amendments of 1972 (Title IX), which prohibits sex discrimination;
- Section 504 of the Rehabilitation Act of 1973 (Section 504), which prohibits disability discrimination;
- Age Discrimination Act of 1975, which prohibits age discrimination; and
- Title II of the Americans with Disabilities Act of 1990 (Title II), which prohibits disability discrimination by any public entity.

These widespread civil rights laws reach virtually the entire scope of education in this nation, as nearly all education institutions in the nation – from elementary through graduate or professional schools – receive federal financial assistance. The OCR's broad coverage extends to activities, practices and policies of:

- nearly 15,000 public school districts;
- more than 3,600 colleges and universities;
- approximately 5,000 proprietary organizations, such as training schools for truck drivers and cosmetologists; and
- thousands of public libraries, museums and vocational rehabilitation agencies.

A staggering number of students and others are affected by the OCR's work. Our statutory responsibilities cover these people:

- 52.2 million students attending elementary and secondary schools;
- 14 million students attending colleges and universities, as well as the millions of applicants to these colleges and universities;
- tens of thousands of students attending proprietary schools;
- thousands of students in vocational rehabilitation agencies; and
- millions of people using libraries and museums.

The focus of the agency is on the provision of equal access to programs and services to students and to student applicants. Although people seeking employment in education, or those already employed by schools and colleges, are

generally protected under the OCR's statutes, the agency's authority over employment cases is limited. We refer the great majority of the employment cases in education to the Equal Employment Opportunity Commission.

The OCR also carries out civil rights provisions for the Magnet Schools Assistance program (Title V, Part A of the Elementary and Secondary Education Act). In the last fiscal year, for example, we reviewed magnet school applications and provided civil rights assistance to these applicant schools.

HOW THE OCR DOES ITS WORK

The Office of the Assistant Secretary for Civil Rights, located in Washington, D.C., provides overall leadership, support and coordination to the 12 enforcement offices throughout the country. The headquarters office also issues policy clarifications to help educators meet their civil rights obligations when new issues emerge or when legislation and court decisions take place. In fiscal year 1998, new policy was disseminated on a number of issues.

- Secretary Riley, with the OCR's input, issued a Dear Colleague letter to chief state school officers and district superintendents reminding them of their obligations regarding sexual harassment. The letter served to follow up the United States Supreme Court ruling in *Gebser v. Lago Vista Independent School District*.
- The OCR issued two letters clarifying the application of Title IX to athletic scholarship awards for intercollegiate athletic programs.

The OCR carries out its civil rights compliance responsibilities through a number of activities, including complaint investigations, compliance reviews and technical assistance. A large share of the agency's work is devoted to investigating civil rights complaints filed by students, parents and others. Although it is difficult to predict what complaints will be filed, the OCR monitors current trends through analysis of its complaint data. The OCR also conducts agency-initiated compliance reviews on issues deemed critical within education and civil rights fields. To assist others in understanding and complying with the nation's civil rights laws, the agency also provides cost-effective assistance in the form of workshops, conferences, and publications and other outreach services, to help schools and colleges, and their students and employees.

> There are not words to express my appreciation for your efforts. I don't know when I have worked with issues where there were so many complex steps needed to be taken and where they were so efficiently completed. Thank you for this.
>
> Letter from Parent to OCR Investigator

The OCR Investigates Complaints

Any person may file a complaint with the OCR if he or she believes someone has suffered discrimination due to race, color, national origin, sex, disability or age in a federally funded education program or activity. The person who files the complaint does not have to be the one who experienced discrimination; for example, parents often file complaints on behalf of their elementary or secondary school children. In fact, anyone may file a complaint on behalf of any other person or group of people.

The goal of the OCR is to resolve the complaint allegations promptly, fairly and appropriately. The agency has found that the best way to resolve problems is a collaborative approach among students, parents, community groups, state education agencies, and schools and colleges. We realize that these different stakeholders have a common interest in ensuring a high quality education for all students, and we also recognize our need to consider their unique perspectives. In addition, the involvement of these citizens – no matter how diverse their interests

may appear to be – results in their mutual ownership of the problem's resolution. We remain convinced that the best and most effective solutions to allegations of discrimination come from these collaborative approaches.

The OCR is creative in its use of techniques to resolve complaints. For example, the agency may help move the student or parent and the school or college toward an agreement on how to resolve the complaint. In another technique, the OCR may negotiate an agreement resolving the allegations raised by the student or parent. Of course, the OCR may also determine that there is not enough evidence to support a finding of a civil rights violation. In other situations, the agency may issue a finding based on its investigation and negotiate an agreement with the school or college. OCR allows these methods, or any combination of them, to be used at any time to reach resolution.

These methods are effective because they:

- provide timely intervention at the beginning of the complaint process;
- focus on achieving positive change; and
- put the concerns of students, parents and school administrators at the center of the issue.

Through these non-adversarial approaches, the OCR resolves civil rights violations. The agency tries every logical means to end disputes by working with students and parents, and with schools and college officials. Rarely does the OCR need to move to formal enforcement; however, it will take this step when all other alternatives fail.

The OCR Conducts Compliance Reviews

To combat discrimination effectively, the OCR reviews the policies and practices of education institutions to ensure their compliance with law. It cannot rely solely on complaints filed by students and others as these complaints may focus, in any one year, on education issues that are not fully representative of the most acute civil rights problems. Therefore, the agency initiates compliance reviews to balance its enforcement program by looking at areas and issues that may be under-represented by complaints. Also, the agency designs its compliance reviews to benefit the greatest numbers of students. These reviews make the best use of the agency's resources, as well as balance its enforcement program.

During fiscal year 1998, the OCR initiated 102 reviews and it completed 100 reviews, some of which were started in earlier years. The reviews initiated focused on:

- discrimination against minorities in special education and remedial courses;
- discrimination against minorities in gifted and talented and other advanced placement courses;
- access to programs for English-language-learning students;
- racial harassment;
- discrimination on the basis of sex in athletics; and

- desegregation in higher education, and in elementary and secondary school systems.

The OCR uses the best information available to select issues and schools for review. Education and civil rights groups, community organizations, parents and the media all contribute a variety of knowledge used in the agency's decision-making. The OCR backs this up with statistical data from such sources as the Elementary and Secondary School Civil Rights Compliance Report, which it administers. Since 1968, this survey has been the chief source of data collection on the status of civil rights in the nation's schools. One-third of the nation's school districts are included in its biennial representative sample.

The OCR Gives Technical Assistance

Putting an end to discrimination includes preventing it before it starts. It is for this reason that the OCR provides information and other support services –known as technical assistance – to schools and colleges, as well as to community, student and parent groups. The aid that the OCR gives to education institutions helps them comply with federal civil rights requirements, while the assistance given to students and others informs them of their rights under law regarding equal access to high-quality education.

One example of the timely assistance given by the OCR to school districts and state education departments is the work of the OCR's San Francisco office. California's Proposition 227, which passed in June 1998, requires school districts to redesign their education programs for the state's 1.4 million English-language learners. Before the start of the new school year, districts had to develop new curriculum, obtain new teaching material, revamp student and teacher assignments, and educate teachers and parents about new state requirements. The OCR assisted California districts by working with the state education department to offer a series of workshops focusing on federal law in the context of the new state law. The workshops began in September and are being given at school districts and county offices of education.

This conference should not be viewed as a one-time event. It should be the beginning of a long-overdue process to bring together the federal, state and local structures with voluntary parent agencies and other stakeholders.

Parent group representative

Technical assistance is given by the OCR's headquarters and 12 enforcement offices through a variety of methods that include on-site consultations, conferences, training, community meetings and published materials. A customer service team in the agency's headquarters office in Washington, D.C., serves as the first point of contact for students, parents, educators and community members who need a question answered, who want a copy of one of the OCR publications, or who have a Freedom of Information Act request. In addition to the headquarters team, each of the 12 enforcement offices includes a staff member serving as a liaison to the customer service team.

In addition, the agency serves the public through its web page at the address http://www.ed.gov/offices/ocr. The agency also operates an 800 telephone line [1-800-421-3481] that is staffed during business hours, eastern time. Calls and letters requesting assistance come from other federal agencies, state agencies, local school districts, community groups, and parents and students.

The conference provided me with an update on the current issues as they related to serving language-minority students. All sessions were very informative. Thank you.

State education agency official

Nearly 5,000 hotline phone inquiries were answered by the customer service team in the last fiscal year and just about all these questions were answered through this single point-of-contact. The team also responds to an increasing volume of e-mail.

HOW THE OCR MEASURES ITS WORK

The OCR's aim is to accomplish its functions as efficiently as possible. To achieve this goal in fiscal year 1998, we worked with a broad cross-section of people to define the positive changes we want to achieve. We concluded that the most meaningful way to demonstrate the OCR's high performance is by its impact on five major areas.

- Access: We often use the word "pipeline" to indicate access to high-quality education, which is a right of every child in the nation. Unfortunately, for some children the pipeline is narrow and they do not get through due to their race, limited-English-language ability, disability or sex. The OCR works to widen this pipeline so that access to high-quality education increases each year.
- Number of students affected: Depending on the civil rights issue under resolution, the number of students may be counted as those directly affected by OCR's work (for example, the number of English-learning students) and as those who comprise the student body (for example, a school district that issues a new sexual harassment student handbook affects its entire student population).
- Increased compliance: This number reflects the policies, procedures or practices that were amended to comply with federal civil rights laws within our jurisdiction. Each school district or college that agrees to make a correction as a result of intervention by the OCR counts as a compliance change, as do changes coming about through technical assistance.
- Efficient resolution of complaints: This measure is to resolve 80 percent of complaints within 180 days of their receipt by the OCR.
- Successful partnerships: The process of working with educators and with community, parent and student groups is as important as resolving the issue. Through our collaborative efforts, we can educate school people and others about the importance of equal access to high-standards learning, and we can help them internalize these goals. A partnership is counted as successful each time we reach out to parents and students and work together as colleagues – rather than as adversaries – to achieve strong civil rights compliance.

A RIGHT-SIZED OCR

In fiscal year 1998, Congress appropriated $61.5 million to OCR. The appropriation was a much-needed increase for the agency, reflecting a 12-percentage-point rise above the prior year. For the OCR, the 1990s had been a period of austerity. For example, in fiscal year 1997, the OCR staff level was at its all-time low, following several years of severe under-staffing due to insufficient funding. In that year, the office only had 700 staff nationwide, including just 101 attorneys in the enforcement offices. Caseload level at that point was 1:67.

At the beginning of fiscal year 1998, the OCR had a staff level of 661 people on board, which was the fewest number of staff at any time since the 1980 creation of ED. In fiscal year 1998, the Congress recognized this shortfall by fully funding the agency for the first time in a decade. At the year's end, the ratio of attorneys in the enforcement offices to complaint caseload was 1:47.

APPROPRIATION AND WORKLOAD
FISCAL YEAR 1990 - FISCAL YEAR 1998

FY	Presidential Request	Congressional Appropriation*	FTE	Complaints		Compliance Reviews	
			Usage	Filed	Resolved	Initiated	Resolved
1998	$61,500,000	$61,500,000	685	4847	4753	102	100
1997	$60,000,000	$54,900,000	681	5296	4981	152	140
1996	$62,784,000	$55,277,000	745	4828	4886	146	173
1995	$61,457,000	$58,236,000	788	4981	5559	96	178
1994	$56,570,000	$56,570,000	821	5302	5751	144	90
1993	$61,400,000	$56,402,000	854	5090	4484	101	82
1992	$56,000,000	$53,625,000	848	4432	4180	77	50
1991	$49,900,000	$48,404,000	797	3809	3497	41	22
1990	$45,178,000	$44,572,000	815	3384	3130	32	30

*FY 1990 and FY 1995 Appropriation after sequestration; FY 1997 Appropriation after recision

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With the full fiscal year 1998 appropriation, the OCR is now better equipped to carry out its mission. As a result of the fiscal year 1998 budget increase, the agency hired 91 new employees, with a greater number of attorneys and investigators hired than any other job category. The majority of these new staff are located in the 12 enforcement offices throughout the country. Training and development for skill enhancement of this new staff – as well as compensatory training of experienced staff that had been delayed due to insufficient funds – took place immediately after hiring and will continue through the next several fiscal years. We are deeply committed to our investment in staff. In addition, we have moved from traditional enforcement toward the collaborative resolution processes of mediation and negotiation, and we must make sure staff skills are commensurate with their new duties.

Civil rights enforcement is a labor-intensive effort. The greatest part of the appropriation for the OCR is used to pay salary and benefits. In fact, 78 percent of the OCR's budget request goes for those staffing expenses. Therefore, anytime the OCR does not receive full funding, staffing levels might have to be proportionately reduced. When we must limit our staff number due to fiscal constraints, staff must first devote their energies to investigating and resolving the many thousands of individual complaints received each year.

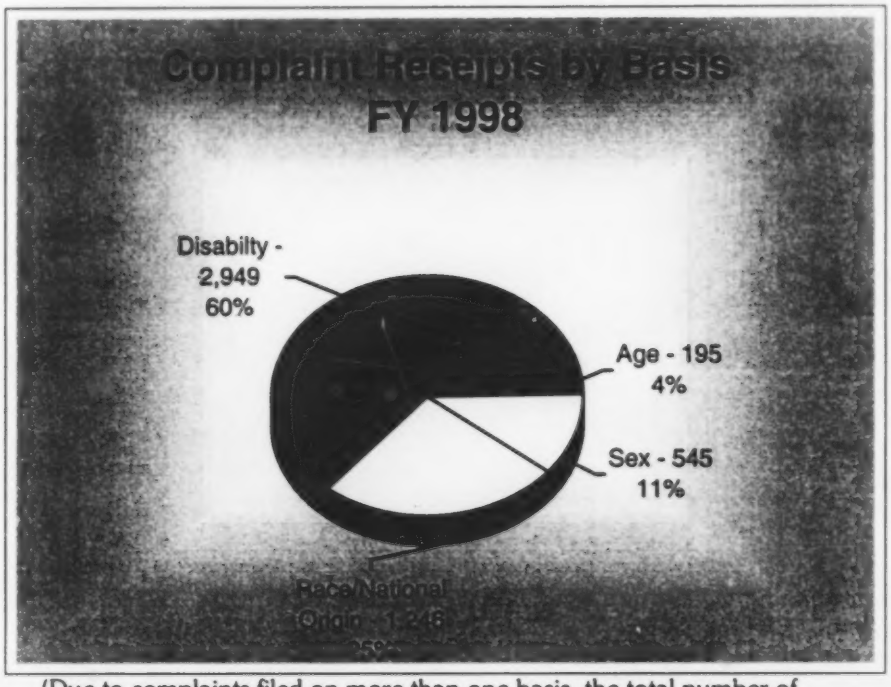
But when the OCR is given full funding, staff can conduct compliance reviews and provide information assistance, as well as resolving complaints. By choosing to give assistance to larger school districts or even to entire states, and by conducting reviews on issues that affect the greatest number of students, we can maximize educational access for the greatest number of students.

In the last fiscal year, our work directly affected nearly six million students. We widened the pipeline to provide greater access to high-quality education, increased the number of students and potential students affected by our work, raised civil rights compliance levels nationwide, maintained our case-processing time, and successfully worked with educators, parents and students, and community groups throughout the country.

As our newly hired staff becomes fully trained and more experienced, we look forward to increasing our activities and our efficiencies. However, without full funding in fiscal year 2000 and the years beyond, the OCR will be forced to severely cut back on information assistance as well as enforcement activities. Although we look forward to making a significant difference to a great number of students in fiscal year 1999, we do not want to return to a position where we cannot address the civil rights concerns of student and parents, or of schools and colleges, by having to curtail our work in that or subsequent years.

THE OCR'S NATIONAL IMPACT

The OCR received 4,847 complaints from students, parents and others in fiscal year 1998. These complaints represented a wide range of civil rights issues and were filed against institutions at all levels of education. Sixty-eight percent of the complaints in fiscal year 1998 were filed against elementary or secondary schools, 25 percent against colleges and universities, and 7 percent against such other agencies as vocational rehabilitation, proprietary schools, and libraries.



(Due to complaints filed on more than one basis, the total number of complaint receipts by basis is greater than the number received.)

For the past decade, the most common basis for a civil rights complaint in education has been discrimination on the basis of a disability. As shown in the figure, the majority of complaints received by the OCR in the last fiscal year are disability complaints (Section 504 and Title II); these complaints comprise about 60 percent of the total. Following behind are those filed on the basis of race, color or national origin (Title VI); these complaints comprise 25 percent of the total. Complaints alleging sex discrimination (Title IX) constitute 11 percent of the total and complaints alleging age discrimination make up 4 percent of the total. If a typical complaint could be identified solely from this data, it would be one filed against an elementary or secondary school by a student or parent charging discrimination on the basis of disability to a program, service or activity.

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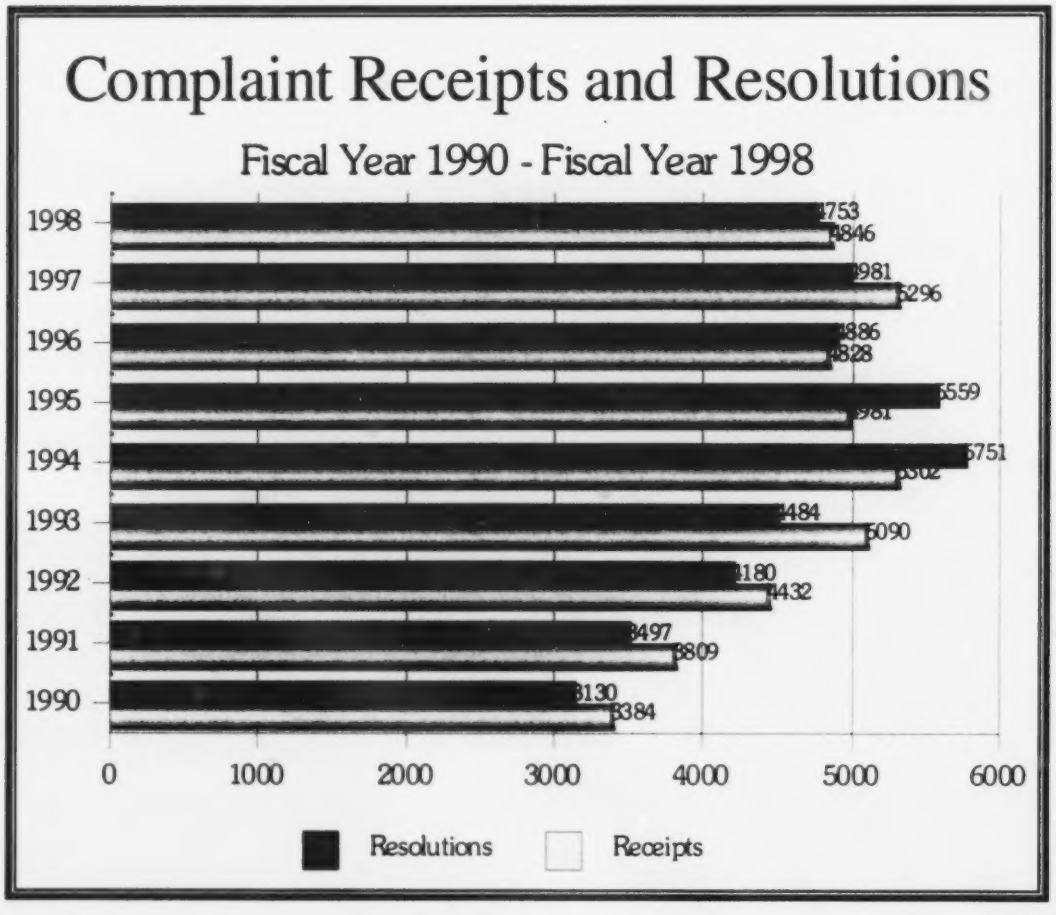
In the last fiscal year, eight percent of complaints (405 complaints) were filed on more than one discrimination basis. The most prevalent multiple-basis complaint was filed on the two issues of disability and race/national origin discrimination. The second most common multiple-basis complaint was filed on the grounds of race/national origin and sex discrimination, and the third most prevalent multiple-basis complaint was filed on disability and sex discrimination.

In fiscal year 1998, 4,753 complaints were resolved, including some that had been filed in a prior year. There are a number of ways a complaint can be resolved: by addressing civil rights violations, or by finding that no civil rights violations occurred, or that there was insufficient evidence to find that a violation occurred, or by finding the complaint inappropriate for the OCR's action, often due to lack of statutory jurisdiction. During fiscal year 1998, the OCR worked successfully with school districts and colleges to resolve complaints in a manner that effectively resulted in positive change for students.



Addressing Discrimination On The Basis Of Disability

The OCR enforces Section 504, prohibiting disability discrimination in federally funded programs and activities, and Title II, prohibiting disability discrimination by all public entities. Fully 60 percent of all complaints filed with the OCR in fiscal year 1998 were filed by students and their parents who alleged discrimination on the basis of disability. Along with investigating these 2,949 disability complaints, OCR also initiated 6 new compliance reviews covering both disability and race/national origin issues, and 1 review on the issues of disability, race/national origin and sex.

The bulk of the OCR's investigations in the past year focused on the provision of:

- accessible school facilities and programs;
- appropriate regular or special education services;
- services to students with disabilities in the least restrictive settings consistent with their educational needs;
- appropriate academic adjustments and modifications; and
- auxiliary aids for students with impaired sensory, manual or speaking skills.

Here are some of the stories of the OCR's work in fiscal year 1998 that represent the struggle to provide equal access to an appropriate education program for students with disabilities.

No Playgrounds Available To Children With Disabilities

Young children who are mobility impaired were unable to play outdoors with their classmates because they could not use the school's playground equipment or even enter the play area. After working with the OCR to resolve a parent's complaint, the school district agreed to provide a range of accessible play facilities equivalent to those provided to students who are not mobility impaired, and to make sure that routes to play equipment and sand areas are available to all students.

School Discounted Student's Disability Because I.Q. Was So High

A fifth-grade student with Aperger's Syndrome – a form of autism often accompanied by a high I.Q. – was denied a free and appropriate education because his school district did not believe it had a legal obligation to serve him due to his high intelligence. As a result of the OCR's actions, the district provided the student with the education, services and aids he requires based on his needs. This case also served to alert the OCR to potential future problems in this school district. As a result of the agency's work, the district agreed to identify and locate every

qualified student with a disability who was not receiving a public education, and inform them and their parents of the district's obligations under Section 504.

The purpose of this letter is to send you the enclosed facsimile of my son's graduation announcement and to thank the employees of your department who so unselfishly assisted me and my son last year. Jimmy's future is much brighter because of the help and support we received from ... your department.

Letter from parent

Hearing-Impaired Parents Needed Interpreter For School Events

Parents who were hearing impaired were having a difficult time participating in their kindergarten daughter's schooling because they received inadequate and inaccurate information from an interpreter hired by the school district. Civil rights laws in education covering disabilities ensure access to education information not just for students with disabilities but also for students' parents or guardians who may be disabled. With OCR's assistance, the parents and their district resolved their differences and agreed to a strategy for improving communication for the next 12 years of the child's education.

Program For Children With Mental Health Problems Refused Boy With Diabetes

A camp that asked a local school district for referrals to enroll children with mental health problems refused to admit a child who also had diabetes. The camp cited possible health risks despite assurances from the child's physician and his grandmother that his health was well-managed and posed no risk as long as camp employees were notified of his diabetes. The OCR mediated to allow the child to enter the camp program. It also made the school district aware of its legal obligations to students when it worked with other organizations. In addition, the OCR alerted its sister organization, the Office for Civil Rights in the United States Department of Health and Human Services, so that this agency with direct jurisdiction over the camp could provide technical assistance to camp administrators.

Charter Schools Must Comply With Disability Laws

A disabled kindergarten student who was enrolled in a charter school during its first year of operation was having behavioral problems related to his disability. Few special services were given him and, at the beginning of his second year, the charter school notified the parents of a decision to hold an expulsion hearing for their child. The parents withdrew their son from the school and filed a complaint with the OCR, which determined that the charter school had violated anti-discrimination laws by failing to provide supplementary aids and a continuum of special education services to the child. The charter school agreed to readmit the boy and reimburse his family for the remedial tutoring, therapy and child care that resulted from his exclusion. The student is now in third grade and is making good progress at the school. The OCR continues to monitor the charter school's provision of special education services to students.

As I look back to where I was one year ago, I must thank you for your help. It's because of the work you do that I will be able to graduate.

Letter from mobility-impaired university student

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Proprietary School Made Disabled Student Take Additional Tests

An older student who had lost one hand and a leg was required by his business college to demonstrate his typing skills and his ability to move around the classroom before the school would admit him to its keyboarding class, although it made no other students demonstrate skills or agility. The school's additional requirement for the student on the basis of his disability is prohibited by civil rights laws. As a result of the OCR's intervention, the business college amended its policies and practices, admitted the student to the program and purchased a tutorial program appropriate for use by a person without two hands.

110 Community Colleges Lacked Services For Students With Visual Impairments

In a state that serves nearly one million students through the largest community college system in the nation, students with visual impairments were being denied access to print materials and computer-based information. Their chance to attain degrees was significantly impaired by an inability to receive publications and other information in a format they could use. The OCR worked with administrators of all 110 colleges to: develop a strategy that purchased adaptive hardware cost-effectively; provide advanced adaptive technology training for specialists; create disability-access guidelines for distance learning and Web pages; establish a system-wide translation center; create a central registry of tape and Braille materials; and move responsibility for accessible libraries to library personnel rather than student services personnel. Through these actions, thousands of already-enrolled visually impaired students significantly increased their ease of access and ability to complete college requirements. Future students with visual impairments, too, will enjoy equal access to necessary educational information.

University Failed to Lighten Course Load For Disabled Student

A freshman college student fell into a coma. When he recovered, he had lost some of his cognitive skills and short-term memory. Altogether, he was out of school for 18 months. When he returned, his physician recommended that he enroll in no more than three courses a semester. The university refused to lower its four-course requirement for more than one semester because its policy was to allow only eight semesters total to complete undergraduate requirements. University officials defended their position by stating they had been flexible in allowing the student one part-time semester and that rigorous standards were a hallmark of the top-ranked school. After the OCR saw that the university had not considered the severity of the student's disability and that giving him additional time would not jeopardize its competitive ranking, officials agreed to change their policy for this student and all future students with disabilities whose conditions make them incapable of successful full-time enrollment.

OCR's Boston office received a phone call from a mother who, five years earlier, had filed a complaint against the special education program in her sons' school district. The parent wanted to thank OCR once again and let the investigator know that one son was an assistant manager of a retail store and the other was in his third year of college, preparing to become a special education teacher.

And more ...

- A 13-year-old student with multiple disabilities learned he couldn't go on field trips with his classmates because his school would not arrange accessible transportation for him. The OCR negotiated with his school district to ensure proper transportation and an aide whenever there was a field trip involving his class.
- A nine-year-old girl with clinical childhood depression needed an individualized education program. As a result of the OCR's efforts, the rural school district initiated staff training addressing the needs of young children with emotional problems that will assist teachers working with future students with similar issues.
- A student's father could not attend his daughter's athletic events because they were held at facilities where his wheelchair could not be accommodated, which is a violation of civil rights laws. He needed the OCR to inform the school district of their obligations.
- A high school senior with bi-polar disorder and other medical issues earned a high school diploma but was told that she could not take part in the graduation ceremony with her twin sister and classmates because her last semester was spent in a special program. The OCR received her complaint only four days before graduation but quickly responded with intensive effort so that the senior could take part in the ceremony with her classmates.

Addressing Discrimination On The Basis Of Race, Color and National Origin

Title VI prohibits discrimination on the basis of race, color and national origin in federally funded programs and activities. It is the longest-standing law over which the OCR has jurisdiction, and was passed in 1964. Complaints based on Title VI discrimination comprise the second largest group of complaints filed by students, parents and others. The 1,246 complaints, or one-quarter of the total filed in fiscal year 1998, alleged Title VI violation in these areas, and others:

- ability-grouping practices, including placement in special education programs and programs for the gifted and talented;
- access to alternative-language services by English-language-learners;
- racial harassment;
- school assignment policies;
- school segregation;
- discipline practices; and
- academic grading practices.

A significant number of compliance reviews are conducted by the OCR in the Title VI area; in fiscal year 1998, 85 reviews focused on race/national origin issues solely, while 6 were on race/national origin and disability issues, 4 were on race/national origin and sex discrimination, and 1 combined the issues of race/national origin, sex and disability. These reviews included the areas of over-

OCR investigated a complaint regarding the lack of opportunity for English-language-learning students and monitored changes put in place by the school district for the past five years. In response to a district-administered survey, 100 percent of the parents of these English-language-learning children said that their children's English-literacy skills increased, as well as their school achievement. One student responded, "The English-as-a-second-language class is the best class for me because I can realize that my English is getting better and better every day."

representation of minority students in special education programs and under-representation in gifted and talented programs; access to alternative language services by students who are English-language learners; and segregation of English-language-learning students.

Here are some of these students' stories:

Untrained Staff Assigned To English-Language Learners

The United States Supreme Court has held that school districts are required to ensure that students who are unable to speak and understand English can participate meaningfully in their school district's education programs. OCR's guidance, based on well-settled law, requires districts to adopt, implement and evaluate a sound program grounded in recognized education theory or on a legitimate experimental strategy.

The OCR does not require districts to adopt any particular program of instruction. Regardless of the type of program offered, school districts must make sure they provide English-language-learners with a meaningful opportunity to participate in the regular curriculum. For example, the OCR learned that in ten school districts located in the same state, the majority of 11,800 English-language-learning students were not receiving instruction from teachers who were properly trained in language acquisition skills. In fact, OCR learned that these students were being instructed by para-professionals who did not possess even basic teaching credentials.

To correct the problems found in these ten school districts, the school districts worked with OCR to ensure that all English-language-learning students were taught by certified and trained teachers under a sound program based on recognized language-acquisition theory.

Minority School Lacked Qualified Librarian

This school district had eight elementary schools. All except one employed a full-time qualified librarian to assist students. The only elementary school in the district lacking a librarian was also the only school with a predominantly minority enrollment. The minority school had to make do with a volunteer who worked in the library part-time and, when she wasn't present, classroom teachers had to retrieve materials from the library for students. After a parent filed a complaint, the school district worked with the OCR and hired a certified librarian for the elementary school, assuring students at this school of services comparable to those provided at the other predominantly non-minority elementary schools.

Identifying Gifted Minority Students

In many school districts, minority students are under-represented in programs for gifted and talented students. The issue in five school districts was whether the pipeline to programs for gifted students had been narrowed, illegally denying access to minority students. In all the districts, a resolution agreement specified that students would have equal access to these programs through improved policies and practices that include better notice, broader screening strategies designed to locate non-traditional gifted students, and the use of a

You and the leadership of OCR can be very proud of the work of all these professionals in representing OCR's rationale for giving priority attention to issues related to minorities, English-language learners and special education.

Letter from the director of a conference sponsored by The Urban Special Education Leadership Collaborative

broader variety of evaluation and eligibility criteria. In addition, one of these districts – with only two percent of its gifted students being minority students – started up a pilot program to identify gifted students. The pilot was a success from all perspectives: the district was pleased at the additional number of minority students it expected to identify for gifted programs, and the youngsters were excited by being given challenges they had not been given in the past to show their writing skills, carry out research and perform laboratory experiments.

Latino Students Were Segregated

The OCR established that a school district unjustifiably segregated Latino students from other students during both academic and non-academic classes. Latino students were even separated from others for lunch and assemblies. The reason for their segregation was solely their national origin: the district did not measure their English-language skills before grouping them with other Latino students. The district had other problems, as well. In these children's academic program, the quality of schooling varied from one grade to the next and lacked an overall educational framework. By the time the students reached high school, they had a significantly higher drop-out rate and a lower college admission rate than students who were not Latino. Through assistance from the OCR and its ties to the state department of education and the Mid-Atlantic Equity Center, the district designed a comprehensive program to end segregation and implement effective programs for English-language-learning students of all national origins. Both the district and the community have praised the OCR for our method of resolving this issue and for the continuing assistance provided.

> This letter is to express ... our sincere gratitude and appreciation for the quality assistance, guidance and leadership that has been provided by you and your staff in managing our complaint against the [state].
>
> Associated Directors of Bilingual Education of [state]

State Used One Criterion For Black Students, Another For White Students

One state administered standardized tests to determine which low-achieving students should be placed in classes for the educationally mentally retarded and which should be placed in classes for the learning disabled. In general, educators believe it is more favorable and less restrictive for students to be placed in classes for learning disorders than in classes for educationally mentally retarded students. Despite the similar scores of African American and white students, the African American students were nearly all grouped in educationally mentally retarded classes, while white students were grouped in classes for students with learning disabilities. The OCR worked with the state department of education and local school districts to develop valid and fair methods of determining program placement that were administered reliably and equitably to students of all races.

Addressing Racial Harassment

A parent of a high school student complained that her son and another African American student were being racially harassed by other students. These students used racial slurs and epithets about these two students and about her. The district is 97 percent white. The district's student handbook did not refer to any disciplinary sanctions for students who commit actions of racial discrimination,

including racial harassment and name-calling. In addition, the complainant said that the school did not discipline the students involved nor did it adequately address her concerns. As a result of the OCR's intervention, the school district agreed to modify its racial harassment policy and establish a community forum to address this issue and others. The district will also take steps to learn how to recruit minority teachers successfully by working with the area Desegregation Assistance Center.

Enhancement of Historically Black University

One historically black university that is part of a state's higher education system had been, for a period of decades, underfunded compared to other universities in the state. Working with the OCR, the state agreed to construct and renovate university buildings. The state also enhanced a number of popular academic programs with the expectation that the strengthened programs will assist the university in attracting both minority and non-minority students. During the OCR-state partnership, *Time* magazine named this historically black university its college of the year.

And more ...

- A school district agreed to establish a disciplinary committee – including students, parents and community members as well as teachers and school officials – responsible for reviewing regulations and policies after a disproportionately high number of African American students were disciplined. Data on disciplinary actions also will be collected and analyzed, with the aim of identifying and addressing patterns of concern.
- A school district with a large immigrant Korean population agreed to provide information in Korean to parents who have limited-English skills in accordance with civil rights laws, so they could be informed and involved in their children's education.
- Racial epithets scrawled on school walls were not removed, resulting in a protest by the district's African American students, who were arrested by police for inciting a riot. In this case, the state education department and the United States Department of Justice, as well as the OCR, investigated. The district took action to ensure better understanding between races, as well as making changes in curriculum and hiring practices, and adding a mentoring program for African American students.

Addressing Discrimination On The Basis Of Sex

Title IX prohibits sex discrimination in federally funded education programs. Since its passage 26 years ago, girls and women have made incredible progress in attaining college and graduate degrees, as well as in entering non-traditional fields.

In fiscal year 1998, 545 complaints, or 11 percent, were filed on the grounds of sex discrimination. Issues covered in these complaints included:

- pregnancy and parenting;

- interscholastic or intercollegiate athletic services;
- sexual harassment; and
- assignment to gifted and talented programs.

Three compliance reviews were conducted solely on sex discrimination issues, four combined the issues of race/national origin and sex, and one was on the issues of race/national origin, disability and sex. The areas covered by these reviews were equal opportunity in interscholastic or intercollegiate athletics, and sexual harassment.

Because of your expertise, diligence and follow-through, all of these [Title IX athletics] issues have been resolved and the children are now being educated correctly.

Letter from citizen on several state athletic associations

Pregnant Students Were Isolated

A complaint came in to OCR about a school district that required pregnant students to take all their academic classes at an off-campus site, as well as mandating their attendance at a parenting program. The OCR found that the district, in violation of Title IX, assigned all pregnant girls to a program exclusively for pregnant students that limited their participation in some education and all extracurricular activities. Through the efforts of the OCR, the district agreed to give pregnant students equal access to regular education services and extracurricular activities, and to open the parenting program to any interested student.

Rehabilitation Center Must Address Sexual Harassment

A disabled middle-school student was being sexually harassed by a disabled boy who verbally assaulted her and made lewd physical gestures at the rehabilitation center where the school district had placed her. The district admitted that it had not informed its contract center of the district's sexual harassment policy, nor did the district determine the extent to which the male's behavior was symptomatic of his disability. Nor did it investigate the girl's mother's complaints, and its actions were insufficient in ending the harassment. With the OCR, the district worked out an agreement that stipulated revision and dissemination of the sexual harassment policy to all parties including contractors, training of all staff including contractors, compensatory services and a plan to keep the student and her harasser separated.

ROTC Program Discriminated Against Female Cadets

A female cadet in a United States Army/District Cadet Junior ROTC program that was administered by a local school district was denied promotion to the battalion commander rank due to her sex, suffered discriminatory remarks by her ROTC instructor and was threatened by his assistant. The student filed a complaint based on sex discrimination with OCR because of its jurisdiction over the district's programs and activities. As a result, the district enhanced its nondiscrimination policy and sensitized the ROTC instructors to their obligations under Title IX, focusing on sex discrimination and sexual harassment. After the agreement was implemented, the girl's parents called their local OCR office and informed the staff of their daughter's promotion to battalion commander, the first time a girl had held this position in the history of the school's ROTC program.

School Offered Home Instruction Rather Than Stop Harassment

One ninth-grade girl was subjected to unbearable sexual harassment by a group of female students. When her school would not address the harassment despite repeated parental appeals, the girl received home-bound instruction, which further isolated her, in both her academic and social lives. The OCR made clear the school's obligation to provide a non-threatening environment in which all students could learn and, as a result, the girl returned to school and was promoted to the tenth grade. Besides stopping the harassing action, the school took measures to prevent similar incidents from occurring in the future.

Community College Expands Women's Athletic Opportunities And Helps Men, Too

To bring its intercollegiate athletics program into compliance with Title IX, one community college expanded opportunities for women by proposing to add athletic teams. By doing this, the college was meeting the requirements of the OCR's three-part test on intercollegiate athletics, which states that a college provides nondiscriminatory opportunities for men and women if it meets *any one* part of this test. The three parts are:

- providing athletic opportunities in numbers substantially proportionate to enrollment by sex;
- establishing a history and continuing practice of program expansion for members of the under-represented sex – which, in the case of this college, was women; and
- fully and effectively accommodating the interests and abilities of the under-represented sex.

About two-thirds of colleges chose to comply with Title IX by deciding to fully and effectively accommodate the interest and abilities of the under-represented sex and this story is a good example of a college using this method. During its discussions with the OCR, the college saw that by adding golf, swimming and tennis teams for women, it could also add men's teams in these same sports for little additional cost. Although not all colleges are able to add men's teams as this one did, never would the OCR mandate a college to drop a team for men to comply with Title IX. With assistance from the OCR, the college determined the interest and ability of women students and, as a result, has nearly doubled participation opportunities for women as well as increasing opportunities for men.

State-Of-The-Art Field For Boys; Inadequate Field For Girls

A brand-new high school included a state-of-the-art baseball facility for boys, including dugouts, generous seating, lockers, a storage room and PA system. In addition, the field was large enough for both the junior and senior players to practice and play. In contrast, the girls were told there was no softball field for them: instead, the school had made arrangements with a local church to share their field. This field had no seating, locker room, dugout, storage room or PA system, and the field itself was not comparable in quality or size to the one

provided to boys. After OCR's intervention, the school district not only built a comparable softball facility for girls but it also reviewed facilities for girls at other schools to determine any needed upgrades.

Quarter-Million In Women's Scholarships

A complaint filed by a national advocacy group against a university alleged that it discriminated against women athletes in awarding scholarships. Title IX provides that when a college or university awards athletic scholarships, these scholarship awards must be granted to "members of each sex in proportion to the number of students of each sex participating in ... intercollegiate athletics." In this case, the OCR's investigation concluded that the university was not awarding substantially equal amounts of scholarship dollars to the men's and women's programs, and it initiated settlement discussions. Working voluntarily with the OCR, the university will ensure that both the male and female athletic programs receive an equitable share of scholarship monies. As an immediate remedy to the identified disparity, the women's athletic program will receive an increase of about $269,000 over the next two years.

And more ...

- A pregnant student was denied the right to participate in an automobile-painting class because her teacher claimed the chemicals would pose risk to her unborn child. Her physician's statement that she was not at risk as long as she wore the same protective clothing as the other students was disregarded and her instructor continued to verbally abuse her for her behavior. The OCR requested that the school reinstate her to the class and the district sent the instructor to sensitivity training classes.
- A district, with the help of the OCR, agreed to enroll a student in a neighboring district as she had requested because she had been sexually harassed rather than make her continue to face her former harassers.

INTO THE NEXT CENTURY

The OCR is better equipped to handle the complex education challenges raised by the civil rights issues of this decade than it was during its austere years. We have invested heavily in ensuring the best training and development for both our new staff members and our more experienced workers. Still, the OCR staff must keep current in the ever-changing fields of technology. We also must stay up-to-date in the area of appropriate dispute resolution. For example, in working with school districts, the agency's investigative staff need to extend their techniques beyond traditional ones to include the newer appropriate dispute resolution methods of facilitation and negotiation.

In addition, the OCR staff must learn to identify clearly the impact of its work on students, on student access, on compliance activities and on partnerships with groups inside and outside the federal arena. Staff will also need to keep careful measurements of complaints to ensure their timely resolution. In the next fiscal year, we want to bring about change more efficiently for the greatest number of students – many of whom experience substandard schooling through circumstances of birth and geography.

> We have to have high hopes for all of our children. And we have to make them know that they can have high hopes for themselves. A great nation that aspires to even greater things in a new century in a new millennium cannot afford to leave a single child behind.
>
> President William J. Clinton

With the full funding enjoyed by the OCR during the last fiscal year, we have been able to move away from putting nearly all our resources into investigating individual complaints. With this year's staff, we can now plan broader activities, including conducting compliance reviews and providing technical assistance on the areas that would do the most good for the greatest number of people. We have moved from an exclusively reactive mode that was necessary during our staff shortfall.

OCR has strengthened its time-honored goal of bringing equity to all students. In fiscal year 1998, we have made positive changes in the educational experiences of nearly six million students. Each of the efforts we make toward improving the lives of approximately 5.9 million students – whether it was moving an African American child into the gifted and talented courses appropriate for her, or making sure that visually impaired students studying in 110 state colleges would be able to use material from the library collection – has resulted in a federal expenditure, on the average, of only $1 per student nationwide. We pledge to continue our work so that the OCR benefits the greatest number of people and impacts the most severe discrimination problems – and does it in the most efficient way possible.

OCR PUBLICATIONS

Please call 1-800-421-3481 if you would like one or more copies of these publications.

Title VI of the Civil Rights Act of 1964

Education and Title VI
- English
- Spanish

Historically Black Colleges & Universities and Higher Education Desegregation
Magnet Schools: Promoting Equal Opportunity and Quality Education
Provision of an Equal Education Opportunity to Limited-English Proficient Students
- English
- Spanish

Student Assignment in Elementary & Secondary Schools & Title VI

Title IX of the Education Amendments of 1972

Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test
Equal Opportunity in Intercollegiate Athletics
Sexual Harassment: It's Not Academic
Student Assignment in Elementary and Secondary Schools & Title IX
Teenage Pregnancy and Parenthood Issues
Title IX and Sex Discrimination
Title IX: 25 Years of Progress
Title IX Grievance Procedures: An Introductory Manual

Section 504 of the Rehabilitation Act of 1973 (Section 504)

Auxiliary Aids and Services for Postsecondary Students with Disabilities
Clarification of School Districts' Responsibilities to Evaluate Children with Attention Deficit Disorders
Discipline of Students With Handicaps in Elementary and Secondary Schools
Free Appropriate Public Education for Students with Disabilities
Placement of School Children with AIDS
Rights of Individuals With Handicaps Under Federal Law
- English
- Spanish

Student Placement in Elementary & Secondary Schools and Section 504 and Title II
Civil Rights of Students with Hidden Disabilities

GENERAL

Annual Report to Congress (Years 93, 94, 95, 96, 97)
Application of Federal Civil Rights Laws to Public Charter Schools
Guidance Counselor's Role in Ensuring Equal Educational Opportunity
How to File a Discrimination Complaint with the Office for Civil Rights
- English
- Spanish
- Vietnamese
- Cantonese
- Hmong

Impact of the Civil Rights Laws

GENERAL - *(con't)*

Nondiscrimination in Employment Practices in Education
Notice of Nondiscrimination
Office for Civil Rights: Ensuring Equal Access to Quality Education
Vocational Education & Civil Rights
What Schools Can Do to Improve Math & Science Achievement by Minority & Female Students

OCR Regulations/Federal Register Policies

Age Discrimination Act of 1975
Award of Student Financial Assistance
Deaf Students Education Services; Policy Guidance; Notices
Guidelines for Vocational Education Programs
Intercollegiate Athletics Policy Interpretation
Title VI Civil Rights Act of 1964
Title IX Education Amendments of 1972
Racial Incidents and Harassment Investigative Guidance
Section 504 Rehabilitation Act of 1973
Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties; Notice
Title II of the Americans with Disabilities Act of 1990

Other Miscellaneous Documents

ADA Self-Evaluation Guide for Public Elementary and Secondary Schools (available through GPO)
Uniform Federal Accessibility Standard (UFAS)

Office for Civil Rights
U.S. Department of Education

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